



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/937,258	09/13/97	DITZIK	R

RICHARD J DITZIK
3143 CARNEGIE COURT
SAN DIEGO CA 92122

LM51/0925

EXAMINER
LAD, L

ART UNIT	PAPER NUMBER
2774	

DATE MAILED: 09/25/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/973,258

Applicant(s)

Richard I. Ritzik

Examiner

LAD, LUN-YI

Group Art Unit

2774

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7-6-98.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-31 is/are pending in the application.
- Of the above claim(s) 1-23 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 24-31 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

Terminal Disclaimer

1. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper tames extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and © may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 24-31 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 4, 8, 9, 12, 13, 14 and

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18 of copending Application No.08/288,882, Patent No. 5,66,570. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Claim Objections

3. The numbering of claims is not accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 22-29 have been renumbered as claims 24-31.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24-26, 28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillary et al(4,729,533) in view of Conway et al(5,278,779).

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As to claim 24, Hillary teaches a display device stand for holding a display on a top of flat horizontal surface comprising hinge and clamping means(44, 46) attached to the bottom of edge of the display(100) (see figures 1, 8 and column 7, lines 40-48); a support arm; a support arm means(48 or 12) coupled to the hinge and clamping means(46, 44); a support pivot means(56 or 38 or 18) pivot means coupled to the support arm means(48 or 12) a base unit(10) (see figures 1, 8, 10, 13; column 3, lines 26-39; column 4, lines 2-10; column 5, lines 60-68; column 6, lines 1-6 and column 7, lines 5-61).

As to claim 28, Hillary et al teach a first support pivot means(46); support arm position adjustment means(12) and a second support pivot means(38)(see figures 1, 8).

Hillary fail to disclose a flat panel display. Conway teaches a display device stand for holding a flat panel display(36)(see figure 3C and column 3, lines 27-43). It would have been obvious to have modified Hillary with the teaching of Conway, since a CRT and a flat panel display are both displays and a flat panel display could be more easy to carry than a CRT.

As to claims 25-26, Hillary teaches hinge and clamping means, a support arm means and support pivot means could be adapted to inclination angle, azimuth angle and elevation translation adjustments(see figures 1, 2, 3a, 3b, 6a, 6b; column 6, lines 7-68 and column 7, lines 1-48).

As to claim 31, Hillary et al teach a multi-section telescoping post means(12)(see figures 1-2).

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6. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hillary in view of Conway as applied to claim 28 above, and further in view of Park(4,931,019).

Conway teaches a display monitor comprising battery power(see column 3, lines 8-12). Hillary as modified fail to disclose a display assembly can be operational without connection of a first support pivot means, support arm position adjustment means and a second support pivot means and a base unit.

Park teaches a display assembly could be operated without connected first support pivot means, support arm position adjustment means and a second support pivot means and a base unit(see figure 1). It would have been obvious to have modified Hillary as modified with the teaching of Park, so as to simplify the display structure.

7. Claims 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makita(4,859,092) in view of Nagaoka(JP2-148086).

Makita teaches a display monitor comprising a base unit for resting on a horizontal surface; a base support pivot means(7) attached to the base unit near the middle of the base unit(see figure 1 and constitution).

Nagaoka fails to disclose support arm position adjustment means and a panel support pivot means.

Hillary et al teaches a display monitor(11) comprising a base unit(13); a base support pivot means attached to the base unit near the end of the base unit(13); support arm position adjustment means(19) connected to the base support pivot means for position adjustments; a panel support

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pivot means attached to support arm position adjustment means and a flat panel display assembly(23) connected to the panel support pivot means near the bottom edge of the flat panel display assembly(23)(see figure 1).

Makita fails to disclose a base support pivot means attached to the base unit near the middle of the base unit.

Nagaoka teaches a display monitor comprising a base support pivot means attached to the base unit near the middle of the base unit(see figure). It would have been obvious to have modified Makita with the teaching of Nagaoka, since Makita has disclosed base support pivot means attached to the base unit near the end of the base unit(see figure 1) and Makita as modified by Nagaoka could provide a display near close to a viewer.

As to claim 30, Makita teaches a multi-section telescoping post means(19)(see figure 1).

Response to Arguments

8. Applicant's arguments with respect to claims 24-31 have been considered but are moot in view of the new ground(s) of rejection.

Applicant states that the rejection under the judicially created doctrine of obviousness-type double patenting is not proper based on the MPEP 706.03(k) on page 2. The examiner disagrees with that since statement on the MPEP 706.03(k) is referred to **single application**, not two applications(see MPEP 706.03(k)).

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Applicant states that Conway does not teach a display stand and support arms. The examiner disagrees with that since Conway teaches a display stand and a support arm for supporting a display(see figure 2A). Furthermore, Hillary et al have already taught a display stand(10) and support arms(12)(see figure 1).

9. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,

Arlington, VA., Sixth Floor (Receptionist).

10. Any inquiry concerning this communication should be directed to Lun-yi, Lao at telephone number (703) 305-4873.

September 24, 1998

Lun-yi Lao
Lun-yi, Lao